

West's Kansas Statutes Annotated

Chapter 23. Kansas Family Law Code-Revised (Refs & Annos)

Article 32. Custody, Residency and Parenting Plans

K.S.A. 23-3201

Formerly cited as 60-1610

23-3201. Child custody or residency criteria

Currentness

The court shall determine custody or residency of a child in accordance with the best interests of the child.

Credits

Laws 2011, ch. 26, § 18, eff. July 1, 2011.

Notes of Decisions (102)

K. S. A. 23-3201, KS ST 23-3201

Current through 2012 regular session.

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Chapter 23. Kansas Family Law Code-Revised (Refs & Annos)

Article 32. Custody, Residency and Parenting Plans

K.S.A. 23-3202

Formerly cited as 60-1610

23-3202. Parenting plan; best interest presumed

Currentness

If the parties have entered into a parenting plan, it shall be presumed that the agreement is in the best interests of the child. This presumption may be overcome and the court may make a different order if the court makes specific findings of fact stating why the agreed parenting plan is not in the best interests of the child.

Credits

Laws 2011, ch. 26, § 19, eff. July 1, 2011.

Notes of Decisions (8)

K. S. A. 23-3202, KS ST 23-3202

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K.S.A. 23-3203

Formerly cited as 60-1610

23-3203. Factors considered in determination of child custody, residency and parenting time

Currentness

In determining the issue of child custody, residency and parenting time, the court shall consider all relevant factors, including, but not limited to:

- (a) The length of time that the child has been under the actual care and control of any person other than a parent and the circumstances relating thereto;
- (b) the desires of the child's parents as to custody or residency;
- (c) the desires of the child as to the child's custody or residency;
- (d) the interaction and interrelationship of the child with parents, siblings and any other person who may significantly affect the child's best interests;
- (e) the child's adjustment to the child's home, school and community;
- (f) the willingness and ability of each parent to respect and appreciate the bond between the child and the other parent and to allow for a continuing relationship between the child and the other parent;
- (g) evidence of spousal abuse;
- (h) whether a parent is subject to the registration requirements of the Kansas offender registration act, [K.S.A. 22-4901 et seq.](#), and amendments thereto, or any similar act in any other state, or under military or federal law;
- (i) whether a parent has been convicted of abuse of a child, [K.S.A. 21-3609](#), prior to its repeal, or [K.S.A. 21-5602](#), and amendments thereto;
- (j) whether a parent is residing with an individual who is subject to registration requirements of the Kansas offender registration act, [K.S.A. 22-4901 et seq.](#), and amendments thereto, or any similar act in any other state, or under military or federal law; and

(k) whether a parent is residing with an individual who has been convicted of abuse of a child, [K.S.A. 21-3609](#), prior to its repeal, or [K.S.A. 21-5602](#), and amendments thereto.

Credits

[Laws 2011, ch. 26, § 20](#), eff. July 1, 2011.

[Notes of Decisions \(170\)](#)

K. S. A. 23-3203, KS ST 23-3203

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K.S.A. 23-3204

Formerly cited as 60-1610

23-3204. No vested interest or presumption to either parent

[Currentness](#)

Neither parent shall be considered to have a vested interest in the custody or residency of any child as against the other parent, regardless of the age of the child, and there shall be no presumption that it is in the best interests of any infant or young child to give custody or residency to the mother.

Credits

Laws 2011, ch. 26, § 21, eff. July 1, 2011.

[Notes of Decisions \(30\)](#)

K. S. A. 23-3204, KS ST 23-3204

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K.S.A. 23-3205

Formerly cited as 60-1610

23-3205. Rebuttable presumption against best interest of child in certain instances

Currentness

There shall be a rebuttable presumption that it is not in the best interest of the child to have custody or residency granted to a parent who:

- (a) Is residing with an individual who is subject to registration requirements of the Kansas offender registration act, [K.S.A. 22-4901 et seq.](#), and amendments thereto, or any similar act in any other state, or under military or federal law; or
- (b) is residing with an individual who has been convicted of abuse of a child, [K.S.A. 21-3609](#), prior to its repeal, or [K.S.A. 21-5602](#), and amendments thereto.

Credits

[Laws 2011, ch. 26, § 22](#), eff. July 1, 2011.

Notes of Decisions (2)

K. S. A. 23-3205, KS ST 23-3205

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K.S.A. 23-3206

Formerly cited as 60-1610

23-3206. Legal custodial arrangements

[Currentness](#)

Subject to the provisions of this article, the court may make any order relating to custodial arrangements which is in the best interests of the child. The order shall provide one of the following legal custody arrangements, in the order of preference:

(a) Joint legal custody. The court may order the joint legal custody of a child with both parties. In that event, the parties shall have equal rights to make decisions in the best interests of the child.

(b) Sole legal custody. The court may order the sole legal custody of a child with one of the parties when the court finds that it is not in the best interests of the child that both of the parties have equal rights to make decisions pertaining to the child. If the court does not order joint legal custody, the court shall include on the record specific findings of fact upon which the order for sole legal custody is based. The award of sole legal custody to one parent shall not deprive the other parent of access to information regarding the child unless the court shall so order, stating the reasons for that determination.

Credits

[Laws 2011, ch. 26, § 23](#), eff. July 1, 2011.

[Notes of Decisions \(19\)](#)

K. S. A. 23-3206, KS ST 23-3206

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K.S.A. 23-3207

Formerly cited as 60-1610

23-3207. Residential arrangements

Currentness

After making a determination of the legal custodial arrangements, the court shall determine the residency of the child from the following options, which arrangement the court must find to be in the best interest of the child. The parties shall submit to the court either an agreed parenting plan or, in the case of dispute, proposed parenting plans for the court's consideration. Such options are:

(a) *Residency*. The court may order a residential arrangement in which the child resides with one or both parents on a basis consistent with the best interests of the child.

(b) *Divided residency*. In an exceptional case, the court may order a residential arrangement in which one or more children reside with each parent and have parenting time with the other.

(c) *Nonparental residency*. If during the proceedings the court determines that there is probable cause to believe that the child is a child in need of care as defined by subsections (d)(1), (d)(2), (d)(3) or (d)(11) of [K.S.A. 38-2202](#), and amendments thereto, or that neither parent is fit to have residency, the court may award temporary residency of the child to a grandparent, aunt, uncle or adult sibling, or, another person or agency if the court finds by written order that:

(1)(A) The child is likely to sustain harm if not immediately removed from the home;

(B) allowing the child to remain in the home is contrary to the welfare of the child; or

(C) immediate placement of the child is in the best interest of the child; and

(2) reasonable efforts have been made to maintain the family unit and prevent the unnecessary removal of the child from the child's home or that an emergency exists which threatens the safety of the child. In making such a residency order, the court shall give preference, to the extent that the court finds it is in the best interests of the child, first to awarding such residency to a relative of the child by blood, marriage or adoption and second to awarding such residency to another person with whom the child has close emotional ties. The court may make temporary orders for care, support, education and visitation that it considers appropriate. Temporary residency orders are to be entered in lieu of temporary orders provided for in [K.S.A. 38-2243](#) and [38-2244](#), and amendments thereto, and shall remain in effect until there is a final determination under the revised Kansas code for care of children. An award of temporary residency under this paragraph shall not terminate parental rights nor give the court the authority to consent to the adoption of the child. When the court enters orders awarding temporary residency of the child to an agency or a person other than the parent, the court shall

refer a transcript of the proceedings to the county or district attorney. The county or district attorney shall file a petition as provided in [K.S.A. 38-2234](#), and amendments thereto, and may request termination of parental rights pursuant to [K.S.A. 38-2266](#), and amendments thereto. The costs of the proceedings shall be paid from the general fund of the county. When a final determination is made that the child is not a child in need of care, the county or district attorney shall notify the court in writing and the court, after a hearing, shall enter appropriate custody orders pursuant to this article. If the same judge presides over both proceedings, the notice is not required. Any order pursuant to the revised Kansas code for care of children shall take precedence over any order under this article.

Credits

[Laws 2011, ch. 26, § 24](#), eff. July 1, 2011; [Laws 2012, ch. 162, § 48](#), eff. May 31, 2012.

K. S. A. 23-3207, KS ST 23-3207

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Article 32. Custody, Residency and Parenting Plans

K.S.A. 23-3208

Formerly cited as 60-1616

23-3208. Parenting time; enforcement; child exchange and visitation centers

Currentness

(a) *Parents.* A parent is entitled to reasonable parenting time unless the court finds, after a hearing, that the exercise of parenting time would seriously endanger the child's physical, mental, moral or emotional health.

(b) *Enforcement of rights.* An order granting parenting time under this article may be enforced in accordance with the uniform child custody jurisdiction and enforcement act, or [K.S.A. 23-3401](#), and amendments thereto.

(c) *Court-ordered exchange or parenting time at a child exchange and visitation center.* The court may order exchange or parenting time to take place at a child exchange and visitation center, as established in [K.S.A. 75-720](#), and amendments thereto.

Credits

[Laws 2011, ch. 26, § 25](#), eff. July 1, 2011; [Laws 2012, ch. 162, § 49](#), eff. May 31, 2012.

Notes of Decisions (25)

K. S. A. 23-3208, KS ST 23-3208

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K.S.A. 23-3209

Formerly cited as 60-1614

23-3209. Interviews; court; minors

Currentness

The court may interview the minor children in chambers to assist the court in determining legal custody, residency, visitation rights and parenting time. The court may permit counsel to be present at the interviews. Upon request of any party, the court shall cause a record of the interview to be made as part of the record in the case.

Credits

Laws 1982, ch. 152, § 13; [Laws 2000, ch. 171, § 17](#).

Notes of Decisions (3)

K. S. A. 23-3209, KS ST 23-3209

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K.S.A. 23-3210

Formerly cited as 60-1615

23-3210. Information relating to custody or residency of children; visitation or parenting time with children

Currentness

(a) *Investigation and report.* In any proceeding in which legal custody, residency, visitation rights or parenting time are contested, the court may order an investigation and report concerning the appropriate legal custody, residency, visitation rights and parenting time to be granted to the parties. The investigation and report may be made by court services officers or any consenting person or agency employed by the court for that purpose. The court may use the department of social and rehabilitation services to make the investigation and report if no other source is available for that purpose. The costs for making the investigation and report may be assessed as court costs in the case as provided in article 20 of chapter 60 of the Kansas Statutes Annotated, and amendments thereto.

(b) *Consultation.* In preparing the report concerning a child, the investigator may consult any person who may have information about the child and the potential legal custodial arrangements. Upon order of the court, the investigator may refer the child to other professionals for diagnosis. The investigator may consult with and obtain information from medical, psychiatric or other expert persons who have served the child in the past. If the requirements of subsection (c) are fulfilled, the investigator's report may be received in evidence at the hearing.

(c) *Use of report and investigator's testimony.* The court shall make the investigator's report available prior to the hearing to counsel or to any party not represented by counsel. Upon motion of either party, the report may be made available to a party represented by counsel, unless the court finds that such distribution would be harmful to either party, the child or other witnesses. Any party to the proceeding may call the investigator and any person whom the investigator has consulted for cross-examination. In consideration of the mental health or best interests of the child, the court may approve a stipulation that the interview records not be divulged to the parties.

Credits

Laws 1982, ch. 152, § 14; Laws 1983, ch. 199, § 3; [Laws 2000, ch. 171, § 18](#).

Editors' Notes

CHANGE OF NAME

<The department of social and rehabilitation services is renamed the Kansas department for children and families and the secretary of social and rehabilitation services is renamed the secretary for children and families, pursuant to Executive Reorganization Order No. 41, Laws 2012, ch. 185, § 2, eff. July 1, 2012, [K.S.A. 39-1902](#).>

[Notes of Decisions \(2\)](#)

K. S. A. 23-3210, KS ST 23-3210
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K.S.A. 23-3211

Formerly cited as 60-1623

23-3211. Parenting plan; definitions

Currentness

(a) "Temporary parenting plan" means an agreement or order issued defining the legal custody, residency and parenting time to be exercised by parents with regard to a child between the time of filing of a matter in which a parenting plan may be entered, and any other provisions regarding the child's care which may be in the best interest of the child, until a final order is issued.

(b) "Permanent parenting plan" means an agreement between parents which is incorporated into an order at a final hearing or an order or decree issued at a final hearing without agreement that establishes legal custody, residency, parenting time and other matters regarding a child custody arrangement in a matter in which a parenting plan may be entered.

(c) "Legal custody" means the allocation of parenting responsibilities between parents, or any person acting as a parent, including decision making rights and responsibilities pertaining to matters of child health, education and welfare.

Credits

Laws 2000, ch. 171, § 25.

K. S. A. 23-3211, KS ST 23-3211

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K.S.A. 23-3212

Formerly cited as 60-1624

23-3212. Same; temporary orders

Currentness

- (a) The court may enter a temporary parenting plan in any case in which temporary orders relating to child custody is authorized.
- (b) If the court deems it appropriate, a temporary parenting plan approved by the court may include one or more of the following provisions regarding children involved in the matter before the court:
 - (1) Designation of the temporary legal custody of the child;
 - (2) designation of a temporary residence for the child;
 - (3) allocation of parental rights and responsibilities regarding matters pertaining to the child's health, education and welfare;
 - (4) a schedule for the child's time with each parent, when appropriate.
- (c) A parent seeking a temporary order in which matters of child custody, residency, or parenting time are included shall file a proposed temporary parenting plan contemporaneous with any request for issuance of such temporary orders, which plan shall be served with any such temporary orders.
- (d) If the parent who has not filed a proposed temporary parenting plan disputes the allocation of parenting responsibilities, residency, parenting time or other matters included in the proposed temporary parenting plan, that parent shall file and serve a responsive proposed temporary parenting plan.
- (e) Either parent may move to have a proposed temporary parenting plan entered as part of a temporary order. The parents may enter an agreed temporary parenting plan at any time as part of a temporary order.
- (f) A parent may move for amendment of a temporary parenting plan, and the court may order amendment to the temporary parenting plan, if the amendment is in the best interest of the child.
- (g) If a proceeding for divorce, separate maintenance, annulment or determination of parentage is dismissed, any temporary parenting plan is vacated.

Credits

[Laws 2000, ch. 171, § 26.](#)

K. S. A. 23-3212, KS ST 23-3212

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K.S.A. 23-3213

Formerly cited as 60-1625

23-3213. Same; permanent; objectives; general outline, provisions

Currentness

(a) The objectives of the permanent parenting plan are to:

- (1) Establish a proper allocation of parental rights and responsibilities;
- (2) establish an appropriate working relationship between the parents such that matters regarding the health, education and welfare of their child is best determined;
- (3) provide for the child's physical care;
- (4) set forth an appropriate schedule of parenting time;
- (5) maintain the child's emotional stability;
- (6) provide for the child's changing needs as the child grows and matures in a way that minimizes the need for future modifications to the permanent parenting plan;
- (7) minimize the child's exposure to harmful parental conflict;
- (8) encourage the parents, where appropriate, to meet their responsibilities to their minor children through agreements in the permanent parenting plan, rather than by relying on judicial intervention; and
- (9) otherwise protect the best interests of the child.

(b) A permanent parenting plan may consist of a general outline of how parental responsibilities and parenting time will be shared and may allow the parents to develop a more detailed agreement on an informal basis; however, a permanent parenting plan must set forth the following minimum provisions:

- (1) Designation of the legal custodial relationship of the child;

- (2) a schedule for the child's time with each parent, when appropriate;
 - (3) a provision for a procedure by which disputes between the parents may be resolved without need for court intervention; and
 - (4) if either parent is a service member, as defined in [K.S.A. 23-3217](#), and amendments thereto, provisions for custody and parenting time upon military deployment, mobilization, temporary duty or unaccompanied tour of such service member.
- (c) A detailed permanent parenting plan shall include those provisions required by subsection (b), and may include, but need not be limited to, provisions relating to:
- (1) Residential schedule;
 - (2) holiday, birthday and vacation planning;
 - (3) weekends, including holidays and school inservice days preceding or following weekends;
 - (4) allocation of parental rights and responsibilities regarding matters pertaining to the child's health, education and welfare;
 - (5) sharing of and access to information regarding the child;
 - (6) relocation of parents;
 - (7) telephone access;
 - (8) transportation; and
 - (9) methods for resolving disputes.

(d) The court shall develop a permanent parenting plan, which may include such detailed provisions as the court deems appropriate, when:

- (1) So requested by either parent; or
- (2) the parent or parents are unable to develop a parenting plan.

Credits

[Laws 2000, ch. 171, § 27](#); [Laws 2008, ch. 151, § 2](#), eff. May 22, 2008.

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K.S.A. 23-3214

Formerly cited as 60-1626

23-3214. Same; court information; classes; mediation; forms

Currentness

(a) The court shall inform the parents, or require them to be informed, about:

(1) How to prepare a parenting plan;

(2) the impact of family dissolution on children and how the needs of children facing family dissolution can best be addressed;

(3) the impact of domestic abuse on children, and resources for addressing domestic abuse; and

(4) mediation or other nonjudicial procedures designed to help them achieve an agreement.

(b) The court may require the parents to attend parent education classes.

(c) If parents are unable to resolve issues and agree to a parenting plan, the court may require mediation, unless mediation is determined inappropriate in the particular case.

(d) The clerk of the district court shall supply forms and information prescribed by the supreme court which may be used for submission of temporary and permanent parenting plans.

Credits

[Laws 2000, ch. 171, § 28.](#)

K. S. A. 23-3214, KS ST 23-3214

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K.S.A. 23-3215

Formerly cited as 60-1629

23-3215. Notification of other parent of certain events; failure,
indirect civil contempt; material change in circumstances

Currentness

(a) A parent entitled to legal custody of, or residency of, or parenting time with a child pursuant to [K.S.A. 23-3201](#) through [23-3207](#) and [23-3218](#), and amendments thereto, shall give written notice to the other parent of one or more of the following events when such parent: (1) Is subject to the registration requirements of the Kansas offender registration act, [K.S.A. 22-4901 et seq.](#), and amendments thereto, or any similar act in any other state, or under military or federal law; (2) has been convicted of abuse of a child, [K.S.A. 21-3609](#), prior to its repeal, or [K.S.A. 21-5602](#), and amendments thereto; (3) is residing with an individual who is known by the parent to be subject to the registration requirements of the Kansas offender registration act, [K.S.A. 22-4901 et seq.](#), and amendments thereto, or any similar act in any other state, or under military or federal law; or (4) is residing with an individual who is known by the parent to have been convicted of abuse of a child, [K.S.A. 21-3609](#), prior to its repeal, or [K.S.A. 21-5602](#), and amendments thereto. Such notice shall be sent by restricted mail, return receipt requested, to the last known address of the other parent within 14 days following such event.

(b) Failure to give notice as required by subsection (a) is an indirect civil contempt punishable as provided by law. In addition, the court may assess, against the parent required to give notice, reasonable attorney fees and any other expenses incurred by the other parent by reason of the failure to give notice.

(c) An event described in subsection (a) may be considered a material change of circumstances which justifies modification of a prior order of legal custody, residency, child support or parenting time.

Credits

[Laws 2005, ch. 154, § 1](#); [Laws 2010, ch. 135, § 177](#), eff. July 1, 2010; [Laws 2011, ch. 26, § 45](#), eff. July 1, 2011; [Laws 2012, ch. 162, § 50](#), eff. May 31, 2012.

K. S. A. 23-3215, KS ST 23-3215

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K.S.A. 23-3216

23-3216. Reserved

Currentness

K. S. A. 23-3216, KS ST 23-3216

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K.S.A. 23-3217

Formerly cited as 60-1630

23-3217. Child custody and parenting time for parents deployed by the military; modification of orders; hearing

Currentness

(a) As used in this section:

(1) "Deployment" means the temporary transfer of a service member serving in an active-duty status to another location in support of combat or some other military operation.

(2) "Mobilization" means the call-up of a national guard or reserve service member to extended active-duty status. "Mobilization" does not include national guard or reserve annual training.

(3) "Service member" means any member serving in an active-duty status in the armed forces of the United States, the national guard or the armed forces reserves.

(4) "Temporary duty" means the transfer of a service member from one military base to a different location for a limited period of time to accomplish training or to assist in the performance of a noncombat mission.

(5) "Unaccompanied tour" means a permanent change of station for a service member where dependent travel is not authorized.

(6) "Nondeploying parent" means the parent not subject to deployment, mobilization, temporary duty or unaccompanied tour orders from the military.

(b) The absence, relocation or failure to comply with a custody or parenting time order by a parent who has received deployment, mobilization, temporary duty or unaccompanied tour orders from the military, shall not, by itself, constitute a material change in circumstances warranting a permanent modification of a custody or parenting time order.

(c) Any court order limiting previously ordered custodial or parenting time rights of a parent due to the parent's deployment, mobilization, temporary duty or unaccompanied tour shall specify the deployment, mobilization, temporary duty or unaccompanied tour as the basis for the order and shall be entered by the court as a temporary order. Any such order shall further require the nondeploying parent to provide the court with 30 days advance written notice of any change of address and any change of telephone number.

(d) The court, on motion of the parent returning from deployment, mobilization, temporary duty or unaccompanied tour, seeking to amend or review the custody or parenting time order based upon such deployment, mobilization, temporary duty or unaccompanied tour, shall set a hearing on the matter that shall take precedence on the court's docket and shall be set within 30 days of the filing of the motion. Service on the nondeploying parent shall be at such nondeploying parent's last address provided to the court in writing. Such service, if otherwise sufficient, shall be deemed sufficient for the purposes of notice for this subsection. For purposes of this hearing, such nondeploying parent shall bear the burden of showing that reentry of the custody or parenting time order in effect prior to deployment, mobilization, temporary duty or unaccompanied tour is no longer in the best interests of the child.

(e) If the parties in a custody or parenting time matter concerning a parent who receives deployment, mobilization, temporary duty or unaccompanied tour orders from the military have entered into a parenting plan pursuant to [K.S.A. 23-3213](#), and amendments thereto, that includes provisions for custody and parenting time upon military deployment, mobilization, temporary duty or unaccompanied tour, it shall be presumed that the agreement is in the best interests of the child. This presumption may be overcome and the court may make a different order if the court makes specific findings of fact stating why the agreed parenting plan is not in the best interests of the child.

(f) If a parent with parenting time rights receives deployment, mobilization, temporary duty or unaccompanied tour orders from the military that involve moving a substantial distance from the parent's residence or otherwise have a material effect on the parent's ability to exercise parenting time rights, the court may delegate the parent's parenting time rights, or a portion thereof, to a member or members of the service member's family with a close and substantial relationship to the minor child for the duration of the parent's absence, if delegating parenting time rights is in the best interests of the child.

(g) Upon motion of a parent who has received deployment, mobilization, temporary duty or unaccompanied tour orders from the military, the court shall, for good cause shown, hold an expedited hearing in custody and parenting time matters instituted under this section when the military duties of the parent have a material effect on the parent's ability, or anticipated ability, to appear in person at a regularly scheduled hearing.

(h) Nothing in this section shall preclude a parent from petitioning for a modification of a custody or parenting time order based upon a material change in circumstances.

(i) Any order entered pursuant to this section shall provide that:

(1) The nondeploying parent shall reasonably accommodate the leave schedule of the parent subject to deployment, mobilization, temporary duty or unaccompanied tour orders;

(2) the nondeploying parent shall facilitate opportunities for telephonic and electronic mail contact between the parent subject to deployment, mobilization, temporary duty or unaccompanied tour orders and the child during the period of such deployment, mobilization, temporary duty or unaccompanied tour; and

(3) the parent subject to deployment, mobilization, temporary duty or unaccompanied tour shall provide timely information regarding such parent's leave schedule to the nondeploying parent. Willful violation of such order shall constitute contempt of court.

(j) Nothing in this section shall alter the duty of the court to determine custody or parenting time matters in accordance with the best interests of the child.

Credits

[Laws 2008, ch. 151, § 1](#), eff. May 22, 2008.

K. S. A. 23-3217, KS ST 23-3217

Current through 2012 regular session.

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West's Kansas Statutes Annotated

Chapter 23. Kansas Family Law Code-Revised (Refs & Annos)

Article 32. Custody, Residency and Parenting Plans

K.S.A. 23-3218

Formerly cited as 60-1610

23-3218. Modification of child custody, residency, visitation and parenting time; examination of parties

Currentness

(a) Subject to the provisions of the uniform child custody jurisdiction and enforcement act ([K.S.A. 23-37,101](#) through [23-37,405](#), and amendments thereto), the court may change or modify any prior order of custody, residency, visitation and parenting time, when a material change of circumstances is shown, but no ex parte order shall have the effect of changing residency of a minor child from the parent who has had the sole de facto residency of the child to the other parent unless there is sworn testimony to support a showing of extraordinary circumstances. If an interlocutory order is issued ex parte, the court shall hear a motion to vacate or modify the order within 15 days of the date that a party requests a hearing whether to vacate or modify the order.

(b) The court may order physical or mental examinations of the parties if requested pursuant to [K.S.A. 60-235](#), and amendments thereto.

Credits

[Laws 2011, ch. 26, § 26](#), eff. July 1, 2011.

Notes of Decisions (68)

K. S. A. 23-3218, KS ST 23-3218

Current through 2012 regular session.

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Chapter 23. Kansas Family Law Code-Revised (Refs & Annos)

Article 32. Custody, Residency and Parenting Plans

K.S.A. 23-3219

Formerly cited as 60-1628

23-3219. Modification of final order; specify factual allegations

Currentness

(a) A party filing a motion to modify a final order pertaining to child custody or residential placement pursuant to article 22, 27 or 32 of chapter 23 of the Kansas Statutes Annotated, and amendments thereto, shall include with specificity in the verified motion, or in an accompanying affidavit, all known factual allegations which constitute the basis for the change of custody or residential placement. If the court finds that the allegations set forth in the motion or the accompanying affidavit fail to establish a *prima facie* case, the court shall deny the motion. If the court finds that the motion establishes a *prima facie* case, the matter may be tried on factual issues.

(b) In the event the court is asked to issue an *ex parte* order modifying a final child custody or residential placement order based on alleged emergency circumstances, the court shall:

(1) Attempt to have the nonmoving party's counsel, if any, present before taking up the matter.

(2) Set the matter for review hearing at the earliest possible court setting after issuance of the *ex parte* order, but in no case later than 15 days after issuance.

(3) Require personal service of the order and notice of review hearing on the nonmoving party.

No *ex parte* order modifying a final custody or residential placement order shall be entered without sworn testimony to support a showing of the alleged emergency.

Credits

Laws 2000, ch. 171, § 30; Laws 2012, ch. 162, § 51, eff. May 31, 2012.

K. S. A. 23-3219, KS ST 23-3219

Current through 2012 regular session.

West's Kansas Statutes Annotated

Chapter 23. Kansas Family Law Code-Revised (Refs & Annos)

Article 32. Custody, Residency and Parenting Plans

K.S.A. 23-3220

Formerly cited as 60-1612

23-3220. Modifications to orders enforced under title IV-D programs

Currentness

Motions to modify legal custody, residency, visitation rights or parenting time in proceedings where support obligations are enforced under part D of title IV of the federal social security act ([42 U.S.C. § 651 et seq.](#)), as amended, shall be considered proceedings in connection with the administration of the title IV-D program for the sole purpose of disclosing information necessary to obtain service of process on the parent with physical custody of the child.

Credits

Laws 2011, ch. 26, § 27, eff. July 1, 2011.

K. S. A. 23-3220, KS ST 23-3220

Current through 2012 regular session.

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West's Kansas Statutes Annotated

Chapter 23. Kansas Family Law Code-Revised (Refs & Annos)

Article 32. Custody, Residency and Parenting Plans

K.S.A. 23-3221

Formerly cited as 60-1616

23-3221. Modification of parenting time order

Currentness

- (a) The court may modify an order granting or denying parenting time whenever modification would serve the best interests of the child.
- (b) Repeated unreasonable denial of or interference with parenting time granted under this article may be considered a material change of circumstances which justifies modification of a prior order of legal custody, residency or parenting time.
- (c) Any party may petition the court to modify an order granting parenting time to require that the exchange or transfer of children for parenting time take place at a child exchange and visitation center, as established in [K.S.A. 75-720](#), and amendments thereto.

Credits

[Laws 2011, ch. 26, § 28](#), eff. July 1, 2011; [Laws 2012, ch. 162, § 52](#), eff. May 31, 2012.

Notes of Decisions (8)

K. S. A. 23-3221, KS ST 23-3221

Current through 2012 regular session.

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Chapter 23. Kansas Family Law Code-Revised (Refs & Annos)

Article 32. Custody, Residency and Parenting Plans

K.S.A. 23-3222

Formerly cited as 60-1620

23-3222. Change in child's residence; notice; effect; exceptions

Currentness

(a) Except as provided in subsection (d), a parent entitled to legal custody or residency of or parenting time with a child under this article shall give written notice to the other parent not less than 30 days prior to: (1) Changing the residence of the child; or (2) removing the child from this state for a period of time exceeding 90 days. Such notice shall be sent by restricted mail, return receipt requested, to the last known address of the other parent.

(b) Failure to give notice as required by subsection (a) is an indirect civil contempt punishable as provided by law. In addition, the court may assess, against the parent required to give notice, reasonable attorney fees and any other expenses incurred by the other parent by reason of the failure to give notice.

(c) A change of the residence or the removal of a child as described in subsection (a) may be considered a material change of circumstances which justifies modification of a prior order of legal custody, residency, child support or parenting time. In determining any motion seeking a modification of a prior order based on change of residence or removal as described in (a), the court shall consider all factors the court deems appropriate including, but not limited to: (1) The effect of the move on the best interests of the child; (2) the effect of the move on any party having rights granted under this article; and (3) the increased cost the move will impose on any party seeking to exercise rights granted under this article.

(d) A parent entitled to the legal custody or residency of a child under this article shall not be required to give the notice required by this section to the other parent when the other parent has been convicted of any crime specified in article 34, 35 or 36 of chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or [K.S.A. 21-5401](#) through [21-5609](#), [21-6104](#), [21-6325](#), [21-6326](#), [21-6419](#), [21-6420](#) or [21-6421](#), and amendments thereto, in which the child is the victim of such crime.

Credits

Laws 1984, ch. 213, § 1; [Laws 1996, ch. 188, § 5](#); [Laws 2000, ch. 171, § 21](#); [Laws 2011, ch. 26, § 44](#), eff. July 1, 2011; [Laws 2011, ch. 91, § 25](#), eff. July 1, 2011; [Laws 2012, ch. 162, § 53](#), eff. May 31, 2012.

Notes of Decisions (5)

K. S. A. 23-3222, KS ST 23-3222

Current through 2012 regular session.

West's Kansas Statutes Annotated

Chapter 23. Kansas Family Law Code-Revised (Refs & Annos)

Article 33. Third Party Visitation

K.S.A. 23-3301

Formerly cited as 60-1616

23-3301. Grandparent and stepparent visitation rights

Currentness

(a) In an action under article 27 of chapter 23 of the Kansas Statutes Annotated, and amendments thereto, grandparents and stepparents may be granted visitation rights.

(b) The district court may grant the grandparents of an unmarried minor child reasonable visitation rights to the child during the child's minority upon a finding that the visitation rights would be in the child's best interests and when a substantial relationship between the child and the grandparent has been established.

(c) The district court may grant the parents of a deceased person visitation rights, or may enforce visitation rights previously granted, pursuant to this section, even if the surviving parent has remarried and the surviving parent's spouse has adopted the child. Visitation rights may be granted pursuant to this subsection without regard to whether the adoption of the child occurred before or after the effective date of this act.

Credits

Laws 2011, ch. 26, § 29, eff. July 1, 2011; Laws 2012, ch. 162, § 54, eff. May 31, 2012.

Notes of Decisions (25)

K. S. A. 23-3301, KS ST 23-3301

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Chapter 23. Kansas Family Law Code-Revised (Refs & Annos)

Article 33. Third Party Visitation

K.S.A. 23-3302

Formerly cited as 38-129

23-3302. Same; modification; enforcement; child exchange and visitation centers

[Currentness](#)

(a) The court may modify an order granting or denying parenting time or visitation rights whenever modification would serve the best interests of the child.

(b) Repeated unreasonable denial of or interference with visitation rights or parenting time granted under [K.S.A. 23-2711](#), and amendments thereto, may be considered a material change of circumstances which justifies modification of a prior order of legal custody, residency or visitation rights.

(c)(1) The court may order exchange or visitation to take place at a child exchange and visitation center, as established in [K.S.A. 75-720](#), and amendments thereto.

(2) Any party may petition the court to modify an order granting visitation rights to require that the exchange or transfer of children for visitation take place at a child exchange and visitation center, as established in [K.S.A. 75-720](#), and amendments thereto. The court may modify an order granting visitation whenever modification would serve the best interests of the child.

Credits

Laws 1971, ch. 149, § 1; Laws 1982, ch. 182, § 149; Laws 1984, ch. 152, § 1; [Laws 2012, ch. 162, § 55](#), eff. May 31, 2012.

[Notes of Decisions \(83\)](#)

K. S. A. 23-3302, KS ST 23-3302

Current through 2012 regular session.

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Chapter 23. Kansas Family Law Code-Revised (Refs & Annos)

Article 33. Third Party Visitation

K.S.A. 23-3303

Formerly cited as 38-130

23-3303. Same; action to enforce rights

Currentness

An action for reasonable visitation rights of grandparents as provided by this act shall be brought in the county in which the child resides with the child's parent, guardian or other person having lawful custody. The court shall fix the time and date for a hearing on the petition and shall prescribe the manner of giving notice thereof to interested persons.

Credits

Laws 1971, ch. 149, § 2; Laws 1984, ch. 152, § 2.

Notes of Decisions (1)

K. S. A. 23-3303, KS ST 23-3303

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Chapter 23. Kansas Family Law Code-Revised (Refs & Annos)

Article 33. Third Party Visitation

K.S.A. 23-3304

Formerly cited as 38-131

23-3304. Same; costs and attorney fees

[Currentness](#)

Costs and reasonable attorney fees shall be awarded to the respondent in an action filed pursuant to [K.S.A. 22-3302 *et seq.*](#), and amendments thereto, unless the court determines that justice and equity otherwise require.

Credits

Laws 1971, ch. 149, § 3; Laws 1984, ch. 152, § 3; [Laws 2012, ch. 162, § 56](#), eff. May 31, 2012.

[Notes of Decisions \(7\)](#)

K. S. A. 23-3304, KS ST 23-3304

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West's Kansas Statutes Annotated

Chapter 23. Kansas Family Law Code-Revised (Refs & Annos)

Article 34. Enforcement of Visitation and Parenting Time

K.S.A. 23-3401

Formerly cited as 23-701

23-3401. Expedited procedure

Currentness

(a) The purpose of this section is to enhance the enforcement of court ordered child visitation rights and parenting time by establishing a simplified, expedited procedure to provide justice without necessitating the assistance of legal counsel.

(b) A party who has been granted visitation rights or parenting time may file with the court a motion alleging denial or interference with those rights and enforcement of those rights. The district court shall provide a form on which such motion may be filed. Such expedited matters shall be heard by a district judge, court trustee, or magistrate, sitting as a hearing officer. The provisions of this section are in addition to those enforcement procedures provided in the uniform child custody jurisdiction and enforcement act, and amendments thereto, and other remedies provided by law.

(c) When a motion seeking expedited enforcement under subsection (b) is filed, the hearing officer shall immediately:

(1) Set a time and place for a hearing on the motion, which shall not be more than 21 days after the date on which the motion was filed; or

(2) if deemed appropriate, issue an ex parte order for mediation in accordance with [K.S.A. 23-3501](#) through [23-3506](#), and amendments thereto.

(d) If mediation ordered pursuant to subsection (c) is completed, the mediator shall submit a summary of the parties' understanding to the hearing officer within five days after it is signed by the parties. Upon receipt of the summary, the hearing officer shall enter an order in accordance with the parties' agreement or set a time and place for a hearing on the matter, which shall be not more than 10 days after the summary is received by the hearing officer.

(e) If mediation ordered pursuant to subsection (c) is terminated pursuant to [K.S.A. 23-3504](#), and amendments thereto, the mediator shall report the termination to the hearing officer within five days after the termination. Upon receipt of the report, the matter shall be set for hearing. Any such hearing shall be not more than 10 days after the mediator's report of termination is received by the hearing officer.

(f) Notice of the hearing date set by the hearing officer shall be given to all interested parties by certified mail, return receipt requested, or as the court may order.

(g) If, upon hearing the hearing officer finds that there has been an unreasonable interference with or denial of visitation or parenting time, the hearing officer shall enter an order providing for one or more of the following:

(1) A specific schedule for visitation or parenting time;

(2) compensating visitation or parenting time to the party suffering interference or denial of visitation or parenting time, which time shall be of the same type (e.g., holiday, weekday, weekend, summer) as for which denial or interference was found and which shall be at the convenience of the party suffering the denial or interference of visitation or parenting time;

(3) the posting of a bond, either cash or with sufficient sureties, conditioned upon compliance with the order granting visitation rights or parenting time;

(4) assessment of reasonable attorney fees, mediation costs and costs of the proceedings to enforce visitation rights or parenting time against the person responsible for the unreasonable denial or interference with visitation or parenting time other than the child;

(5) attendance of one or more of the parties to the action at counseling or educational sessions which focus on the impact on children of disputes regarding visitation or parenting time. Expenses shall be assessed to the person responsible for the denial or interference with visitation or parenting time;

(6) supervised visitation or parenting time; or

(7) any other remedy which the hearing officer considers appropriate, except, if a hearing officer is not a district judge, the hearing officer shall not enter any order which grants a new order, or modifies an existing order for child support, child custody, residency, or maintenance.

(h) Decisions of any hearing officer who is not a district judge shall be subject to review by a district judge on the motion of any party filed within 14 days after the order was entered.

(i) In no case shall final disposition of a motion filed pursuant to this section take place more than 45 days after the filing of such motion.

Credits

Laws 1986, ch. 138, § 1; Laws 1986, ch. 133, § 4; [Laws 1999, ch. 57, § 42](#); [Laws 2000, ch. 171, § 7](#); [Laws 2010, ch. 135, § 38](#), eff. July 1, 2010.

K. S. A. 23-3401, KS ST 23-3401

Current through 2012 regular session.

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Chapter 23. Kansas Family Law Code-Revised (Refs & Annos)

Article 34. Enforcement of Visitation and Parenting Time

K.S.A. 23-3402

23-3402. Reserved

Currentness

K. S. A. 23-3402, KS ST 23-3402

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Chapter 23. Kansas Family Law Code-Revised (Refs & Annos)

Article 34. Enforcement of Visitation and Parenting Time

K.S.A. 23-3403

Formerly cited as 60-1610;60-1616

23-3403. Orders; enforcement

[Currentness](#)

(a) Any custody or parenting time order, or order relating to the best interests of a child, issued pursuant to the revised Kansas code for care of children or the revised Kansas juvenile justice code, shall take precedence over any order under article 32 or 33 of chapter 23 of the Kansas Statutes Annotated, and amendments thereto, or [K.S.A. 60-1610](#), prior to its repeal, until jurisdiction under the revised Kansas code for care of children or the revised Kansas juvenile justice code is terminated.

(b) An order granting visitation rights under article 33 of chapter 23 of the Kansas Statutes Annotated, and amendments thereto, or parenting time under article 32 of chapter 23 of the Kansas Statutes Annotated, and amendments thereto, may be enforced in accordance with the uniform child custody jurisdiction and enforcement act, or this article.

Credits

[Laws 2011, ch. 26, § 36](#), eff. July 1, 2011; [Laws 2011, ch. 91, § 40](#), eff. July 1, 2011; [Laws 2012, ch. 162, § 57](#), eff. May 31, 2012.

[Notes of Decisions \(3\)](#)

K. S. A. 23-3403, KS ST 23-3403

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